



Affordable Housing Program & Underwriting Guidelines

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INTRODUCTION

The City of Colorado Springs, Housing Development Division (HDD) administers federal funds received from the US Department of Housing and Urban Development (HUD). The City receives funding under the Community Development Block Grant Program (CDBG), the HOME Investment Partnerships Program (HOME) and the Emergency Solutions Grant (ESG). The City uses the funds to preserve neighborhoods, create and preserve affordable housing and stimulate economic revitalization.

Purpose

The purpose of the *Affordable Housing Program & Underwriting Guidelines* is to identify the City's affordable rental housing policy objectives, describe the activities available to advance the objectives and the manner in which the activities will be evaluated, underwritten, and selected for funding. The guidelines are intended to achieve compliance with federal, state and local regulations and set the standards for all affordable rental housing projects funded by the City of Colorado Springs, regardless of funding source.

Policy Objectives

The City's 2010-2014 Consolidated Plan and associated Annual Action Plans establish the policy objectives for the Rental Housing Program. To receive federal funding under the abovementioned programs, HUD requires that the City submit a five-year Consolidated Plan, which describes the City's priorities and objectives for each funding source. Additionally, the City must submit an Annual Action Plan for each year of the Consolidated Plan. The Annual Action Plan identifies the activities that will be funded during each fiscal year and the amount of funding allocated to each activity.

Per the 2010-2014 Consolidated Plan, The City's policy objectives include:

1. Supporting local affordable housing development and preservation
2. Increasing the supply of affordable housing (rental and homeownership)
3. Support a housing continuum that includes support to those agencies that provide emergency, transitional, permanent supportive and permanent affordable housing opportunities in the community
4. Increase funding opportunities, as appropriate, for affordable and accessible housing for special needs populations.

5. Support neighborhood preservation through capital improvements, infrastructure and housing preservation activities in designated neighborhood strategy areas
6. Support local efforts to assure that households in crisis are able to obtain and/or maintain housing stability

DEFINITIONS

The following terms are defined for the purpose of this document:

Accessible – as defined by Section 504 of the Rehabilitation Act of 1973, accessible dwelling units or facilities are located on an accessible route and can be approached, entered and used by individuals with physical disabilities.

Adaptable units – certain elements of a dwelling unit or facility can be added to, raised, lowered or altered to accommodate the needs of individuals with disabilities, or to accommodate the needs of persons with different types or degrees of disability.

Adjusted Income – gross household income limit that has been modified according to the number of persons residing within a dwelling unit.

Affordable Housing – in general, housing for which the household is paying no more than 30 percent of its income for gross housing costs, including utilities.

(http://www.huduser.org/portal/glossary/glossary_a.html)

AMI – Area Median Income

Community Housing and Development Organization (CHDO) - a type of non-profit, community based service organization that has, as part of its mission, the development of affordable housing for low- and moderate-income households. HUD requires the organization to meet certain requirements to be classified as a CHDO. *See CHDO application for more information.*

Capital Needs Assessment – rehabilitation activities required to bring a building(s) into compliance with Property Rehabilitation Standards (PRS) or Uniform Physical Condition Standards and other standards as required by HUD.

City – City of Colorado Springs

Debt Coverage Ratio (DCR) – the ratio of net operating income (NOI) to total debt service (DS) during a given time period ($DCR = NOI \div DS$).

Debt Service – required minimum monthly loan payment of principal and interest.

Disability – any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such impairment; or is regarded as having such an impairment.

Eligible Costs – project costs that can be paid with HDD funds. Costs include, but are not limited to, costs or partial costs of acquisition, verifiable hard construction costs, reasonable soft costs, architectural and engineering fees, surveys, market studies, legal fee and materials testing.

Extremely Low Income – households whose income is less than 30% of the median income for the Colorado Springs Metropolitan Statistical Area (MSA), as determined by HUD, with adjustments for smaller or larger families.

Fair Market Rents – rental rates as established and updated periodically by HUD that are determined to be fair, affordable and appropriate rents for a geographical area.

HDD – City of Colorado Springs Housing Development Division

HOME Rent – rental rates established by HUD as fair, affordable and appropriate rents for a geographical area. HOME Rents apply to HOME funded projects and are revised periodically by HUD.

Homeless and Chronically Homeless – as defined in The Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009 (HEARTH Act) (24 CFR 578.3).

Household – all persons who occupy a housing unit. The occupants may be a single family, one person living alone, two or more families living together, or any other group of related or unrelated persons who share living arrangements (24 CFR 570.3).

HUD – U.S. Department of Housing and Urban Development

Income – all reference to "Income" shall mean the annual income as defined in 24 CFR 5.609, referred to as "Part 5 annual income"

Low Income – households whose incomes are between 51% and 80% of the median income for the Colorado Springs Metropolitan Statistical Area (MSA), as determined by HUD, with adjustments for smaller or larger families.

LMI – low- and moderate-income household. A household having an income equal to or less than the Section 8 low-income limit established by HUD.

Moderate Income – households whose incomes are between 81% and 95% of the median income for the Colorado Springs Metropolitan Statistical Area (MSA), as determined by HUD, with adjustments for smaller or larger families.

Neighborhood Strategy Area (NSA) – older areas of the City designated for strategies to preserve and improve neighborhoods.

Net Operating Income (NOI) – income stream generated by the operation of the property, independent of external factors such as financing, depreciation, amortization, and income taxes. A property's yearly gross income less operating expenses. Gross income includes both rental income and other income such as parking fees, laundry and vending receipts, etc. Operating expenses are costs incurred during the operation and maintenance of a property. They include repairs and maintenance, as well as insurance, management fees, utilities, supplies, property taxes, etc. The following are not operating expenses: principal and interest, capital expenditures, depreciation, income taxes, and amortization of loan points.

Non-profit organization – a not-for-profit, non-sectarian organization which is designated by the Internal Revenue Service (IRS) under Section 501(c)(3), as a tax-exempt organization.

Permanent Housing – housing in which the program participant must be the tenant on a lease for a term of at least one year, which is renewable for terms that are a minimum of one month long and is terminable only for cause.

Permanent Supportive Housing – permanent housing in which supportive services are provided to assist special needs populations to live independently.

Program Income – gross income received by the subrecipient directly generated from the use of CDBG or HOME funds with some exceptions. (24 CFR 570.500 and 24 CFR 92.2))

Single Family Housing – a one - to four-family residence, condominium unit, cooperative unit, combination of manufactured housing (including a mobile

home) and lot, or manufactured housing lot. (24 CFR 92.2 & Building HOME 4-1)

Special Needs Housing – supportive housing that is designed to meet the housing and service needs of a target special needs population and provides supportive services for residents.

Special Needs Populations – homeless persons, larger families (requiring 3 and 4 bedrooms) victims of domestic violence, persons recovering from substance abuse, seniors, veterans and persons with disabilities.

Supportive Services – services provided to individuals with special needs which enable individuals to achieve a greater level of independence and/or self-sufficiency such as health services, housing counseling, employment counseling and referral and other services as defined at 24 CFR Section 882.802.

Transitional Housing – housing where all program participants have signed a lease or occupancy agreement, the purpose of which is to facilitate the movement of homeless individuals and families into permanent housing within 24 months and includes supportive services. The program participant must have a lease or occupancy agreement for a term of at least one month that ends in a maximum of 24 months and cannot be extended.

Uniform Physical Condition Standards (UPCS) – the inspection protocol that is used to evaluate the condition of housing.

Very Low Income – households whose income is greater than 30% and less than or equal to 50% of median income for the Colorado Springs Metropolitan Statistical Area (MSA), as determined by HUD, with adjustments for smaller or larger families.

DISCLAIMERS

The City of Colorado Springs reserves the right to fund projects at a lower amount than requested, and the right to deny applications that are not consistent with the City's FY 2014-2015 Action Plan goals and policy direction. The City is under no obligation to consider or fund any proposed project that does not demonstrate compliance with national objectives and eligible activities or local program requirements and does not assist in meeting the City's affordable housing policy goals and/or objectives.

The City reserves the right to determine project eligibility and select the project source to be used for any proposed project. Funding decisions will be based on a variety of factors, not just application scores. Other factors considered are:

1. Operational and management capacity of the applicant
2. Financial capacity
3. The project's potential for transformative impact on the residents and surrounding community
4. Repayment of funds borrowed from HDD
5. Whether the request for funding is for a project that has been previously awarded HDD funds
6. Dedication of other sources of public and private investment
7. HDD will consider how the HDD programs can best maximize the effect of the funding

The *Affordable Housing Program and Underwriting Guidelines* are not intended to address every circumstance that may be encountered in the development process, nor are they a verbatim restatement of all regulatory requirements. Omission of any federal or local regulatory requirements does not relieve the City or the applicant from their respective obligations that may be required by the funding source.

Once a loan agreement has been executed between the City and applicant for the purpose of developing rental housing according to these guidelines, in case of any conflict between the program guidelines and the loan agreement, the terms of the loan agreement shall prevail.

HDD program guideline changes as a result of federal, state or local regulatory or legal requirements may be implemented immediately by the Division Manager.

Revision of the program guidelines usually occurs annually; however, additional revisions can be initiated by the Division Manager at any time. While stakeholder outreach is the goal of HDD, such revisions may occur without notice and are applicable to all pending and future applications. Applicants are responsible for complying with any changes.

FEDERAL AND OTHER REGULATIONS

Applicants must comply with all state and federal regulations related to the construction, rehabilitation or provision of housing. These regulations include, but are not limited to:

- Community Development Block Grant – CDBG
- Home Investment Partnerships Program – HOME
- Title III of the Americans with Disabilities Act (ADA) of 1990
- Section 504 of the Rehabilitation Act of 1973
- Architectural Barriers Act of 1968 – ABA
- Fair Housing Act
- Davis-Bacon and Related Acts
- Copeland Anti-Kickback Act of 1934
- Conflict of Interest Requirements
- Identity of Interest Transactions
- Environmental Requirements
- The Lead-Based Paint Poisoning Prevention Act and Lead Safe Housing Rule
- OMB Circulars A-87, A-102, A-133
- Section 3 - Economic Opportunities for Low and Very Low Income Persons
- Uniform Relocation Act - URA

DO NOT MOVE ANY DIRT ON THE SITE OR BEGIN ANY CONSTRUCTION!

PLEASE BE AWARE: Once an application has been received by HDD, the project must be in compliance with all federal environmental regulations. During the review period, neither an applicant nor any participant in the development process, including public or private non-profit or for-profit entities or any of their contractors may commit or expend any funds, including non-HUD funds, or undertake any activities having either an adverse environmental impact or limitation on the choice of reasonable alternative. If any funds (public or private) are spent or committed to a development prior to the completion of the environmental process, HDD cannot provide federal funding for the project.

Identity of Interest Transactions

Identity of interest refers to situations where the owner, developer or project sponsor control or own the services to be provided in a project, including, but not limited to the general contractor, subcontractor, property manager or other service provider. A declaration of subcontractors or suppliers for which there is an identity of interest through joint ownership with the owner or developer must be declared in the application for funding to HDD. Failure to declare an identity of interest situation may deem a project ineligible.

ELIGIBILITY

Eligible Activities & Costs

- Acquisition*
- New construction*
- Rehabilitation
 - To include essential repairs or improvements to meet local code and Uniform Physical Conditions Standards, major systems repair or replacement, accessibility improvements (ADA, Section 504), abatement of hazardous materials, energy efficiency improvements.
Homeless shelters are not eligible.
- Soft Costs: architectural and engineering fees, financing costs, credit reports, title insurance, recording costs, transaction taxes, appraisals, environmental reviews and builder or developer fees. Project-related soft costs may be awarded on a limited basis and will be at the recommendation of staff and based on need determined during the underwriting review.
- Operating deficit reserve, up to 18-month, for rental and new construction projects for the initial rent-up period. The reserve may be used to pay for project operating expenses, scheduled payments to a replacement reserve and debt service.

It is outside current policy to deliver award proceeds prior to acquisition or completion of construction/rehabilitation of the subject property. However, costs incurred prior to settlement of the award may be reimbursed under specific circumstances. If HOME funds are used to pay off a construction loan, bridge financing, or guaranteed loan, the payment of principal and interest for such loan is an eligible cost only if:

1. The loan was used for eligible costs specified in this section
AND
2. The HOME assistance is part of the original financing for the project and the project meets the requirements of the program.

**One for One Replacement – If the applicant proposes to demolish units that are occupiable by low- and moderate-income households, these units must be replaced at the development site or at another HDD approved site.*

Eligible Applicants

- For-profit, non-profit and quasi-public developers with a documented capacity to construct (or rehabilitate) and operate multifamily housing that benefit extremely low to low-income households
- Applicants and applicant's team members must be in good standing with the City on all previous grants, loans or loan commitments
- Applicants must affirm that there are no defaults or negative collection actions relating to any financial obligation, either to the City of Colorado Springs or to any other public agency or private lender
- Applicant cannot be on any local, state or federal debarment list
- No applicant, developer or contractor with compliance issues outstanding with the City or other public agencies can participate
- The applicant cannot have any outstanding tax liens on any properties on properties owned and operated by the applicant

The City may seek references from other lenders, partners, or public agencies with which the applicant has done business.

Minimum Project Requirements

- ✓ Located in the City of Colorado Springs city limits
- ✓ Project must consist of 1 or more residential units
- ✓ Acquisition ONLY projects must meet the Uniform Physical Condition Standards (UPCS) and have amenities that will allow it to compete effectively in the local market area as determined by HDD
- ✓ Acquisition and rehabilitation or rehabilitation projects must
 - Meet the UPCS
 - Have amenities that will allow it to compete effectively in the local market area as determined by HDD
 - Upon completion pass the Uniform Physical Conditions Standards
 - Complete a third party Capital Needs Assessment (CNA)
- ✓ Project must meet HUD environmental review requirements
- ✓ As determined applicable by HDD, assisted units must be made available to households with Housing Vouchers from the Colorado Springs Housing Authority

Ineligible Costs

Project components may be deemed non-essential elements by HDD and therefore removed from the total project cost. Such items may include, but are not limited to:

- Carpeting for kitchens, bathrooms or patios; window treatments; dumbwaiters; greenhouses, hot tubs or whirlpool baths; mobile homes; outdoor fireplaces or hearths; swimming pools or swimming pool decks (except repair of existing); television antennae; tennis courts; or items deemed to be a luxury.

GENERAL PROJECT REQUIREMENTS

The following are general project requirements for all applicants seeking funding from HDD for housing related projects.

Site Control

Project applicants must have control of any site that will receive HDD funding for acquisition, rehabilitation and new construction activities. Site control must be documented at the time of application. To document site control one of the following must be submitted: a deed or other proof of ownership; an executed lease agreement; an executed contract of sale; or an executed option to purchase or lease. Please keep in mind URA regulations apply and must be followed or applications cannot be considered for funding. Please see the URA checklist on the HDD webpage for guidance.

Appraisal

A property appraisal may be required for projects that will receive HDD funding for acquisition, rehabilitation and new construction. The appraisal must be provided during the application process, *preferably at the time of application submittal*. An appraisal cannot be more than 6 months old. The appraiser must be a Colorado Certified General Appraiser. HDD reserves the right to require an appraisal on completed activities.

Reasonable Costs

The City is responsible for ensuring that the costs are reasonable by examining the sources and uses for each project. Assessment may include comparison to similar projects within the local market, market trend analysis, survey of industry participants, HDD experience and other third party sources.

Work Write-Ups

For acquisition of existing buildings (not slated for demolition) and rehabilitation, HDD must approve work write-ups (i.e., plans and specifications) to determine compliance with the Uniform Physical Conditions Standards and the *City's General Specifications Manual*. The project cannot be bid and work cannot begin until approval from HDD is received.

Cost Estimate

For acquisition of existing buildings (not slated for demolition) and rehabilitation, HDD must approve written cost estimates to ensure that the costs are reasonable. The project cannot be bid and work cannot begin until approval from HDD is received.

Procurement

Applicants must comply with all applicable federal, state and City procurement requirements. HDD requires that applicants selected to receive federal funds comply with the award of the construction contract to the lowest and most responsive proposal that incorporates all essential project elements. The developer shall ensure that all contracts let in the performance of an agreement are awarded in a fair, open and competitive manner. Executed copies of all contracts shall be forwarded to HDD along with documentation concerning the selection process. If the lowest, responsive bidder is not selected, an explanation must be provided to HDD in writing to substantiate the decision.

Debarment and Suspension

Developers, contractors or subcontractors working on a HDD funded project cannot be located on a federal, state or local debarment or suspended list. Prior to awarding a contract, the developer must secure approval from HDD to ensure that the proposed contractor is eligible.

Davis Bacon Weekly Payrolls

If applicable, Davis Bacon payrolls must be submitted weekly on the most current Department of Labor form. Visit the HDD webpage for the most current forms.

Affirmative Marketing

Developers must create an affirmative market plan to further the City's commitment to non-discrimination and equal opportunity housing. Affirmative

marketing consists of actions to provide information and otherwise attract eligible persons in the housing market area to the available housing without regard to race, color, national origin, gender, religion, familial status, disability, sexual orientation, gender identity, or marital status. Records should be maintained describing actions taken by the developer to affirmatively market units. Documentation is required by the Fair Housing Act and the City will review the documentation at each monitoring visit, but may request to review the documentation annually. Applicants are required to use the most current version of HUD form 935.2a – *Affirmative Fair Housing Market Plan – Multifamily Housing*.

Waiver Requests

HDD acknowledges that each project may face unique site, design, financing, population or market constraints for which full compliance may be difficult or impossible. It is intended that such unique constraints are identified during the design process and that the applicant may request a modification or waiver to specific standards and requirements, which will be reviewed on a case-by-case basis to determine whether specific standards should be modified or waived for reasons and purposes acceptable to the City. Requests for modification or waiver to specific standards must be in writing and document the applicant's need and unique situation. When such modifications or waivers are granted, additional requirements may be imposed by HDD.

AFFORDABILITY REQUIREMENTS

Assisted Units

Projects may have a mix of HDD-assisted units and non-HDD assisted units. At least 10% of all units in the project must be designated HDD-assisted units. Assisted units may be fixed or floating. HDD units shall not be isolated within a specific area or areas of the development. The HDD units shall be scattered throughout the development and be of the same quality and have the same proportional mix of square footage and bedroom size as non-HDD units.

Affordability Period

Income and rent restrictions are required for all HDD-assisted units for period of time known as the "affordability period." The affordability period is enforced using a legally binding restrictive covenant that assures that a specified number of units meet certain affordability restrictions for the specified period of affordability. This

requirement may be satisfied in the event the project is subject to a Land Use Restriction Agreement (“LURA”) recorded with the El Paso County Office of the Clerk and Recorder that has been prepared by or deemed acceptable to HDD. All debt instruments secured by the subject property must be subordinate to the LURA.

CDBG & HOME Required Affordability Periods for the City of Colorado Springs		
Activity	Average Per Unit	Minimum Affordability Period
Rehabilitation or Acquisition of Existing Housing	< \$15,000	5 Years
	\$15,000 - \$40,000	10 Years
	> \$40,000	15 years
Refinance of Rehabilitation Project	Any Dollar Amount	15 years
New Construction or Acquisition of New Housing	Any Dollar amount	20 years

The affordability period begins upon issuance of a Certificate of Completion by the City.

The affordability period will remain in effect per the grant agreement, term of the loan or affordability period, whichever is greater.

Income Determination Method

An applicant must determine income eligibility of each household using 24 CFR Part 5, commonly referred to as the “Section 8” method or “Part 5” method. HDD provides a Part 5 Income Worksheet and HUD’s *Technical Guide to Determining Income for the HOME Program* to assist with determining eligibility on the HDD webpage. Please contact HDD for questions concerning income calculations.

Income Recertification Schedule

- The applicant must adopt a schedule for annual recertification of income and a copy must be provided to HDD. Income can be recertified on the anniversary of the original income evaluation, at lease renewal or on an annual schedule whereby all tenants are recertified during the same month.
- Recertification of income eligibility must be conducted by collecting source documentation annually or by obtaining a completed Tenant Information and Income Certification form located on the HDD webpage. If the Tenant

Information and Income Certification method is used, source documentation must be collected every 5th year during the affordability period.

Occupancy & Rent Restrictions

General Restrictions

Income limits for housing projects are calculated according to the actual number of household members as residents are identified. To impute the income level served, applicants may estimate household size based upon the number of bedrooms within a dwelling unit according to the following chart.

Unit Type	Studio	1-bedroom	2-bedroom	3-bedroom	4-bedroom
Income Threshold	1 Person	1.5 Person (1-Person + 2-Person) / 2	3 Person	3.5 Person (3-Person + 4-Person) / 2	6 Person

- Rent restrictions are strictly enforced during the affordability period
- All new tenants must meet the income limits established by HDD
- At least 20% of the HDD assisted units must be reserved for households whose income does not exceed 50% AMI
- The remaining HDD assisted units must be served for households whose income does not exceed 60% AMI. Occasionally, units can serve households with incomes up to 80% AMI. *Please discuss with HDD staff*
- If a tenant pays utilities, the maximum allowable rents must be reduced by the amount of the applicable utility allowance as established by HUD at <http://huduser.org/portal/resources/utimodel.html>

HOME Assisted Units

- For households at 50% AMI or less, tenant rent must be the lowest of 30% of adjusted income, Low HOME rent or Fair Market Rent (FMR)
- For households between 51% and 60% AMI, tenant rent must be the lowest of 30% adjusted income, High HOME rent or FMR.
- Occasionally, units can serve households up to 80% AMI. *Please discuss limits with HDD*

CDBG Assisted Property and Units:

- 51% of all units on the **property** must be restricted to households at 60% AMI or less, of which 20% must be restricted to households at 50% AMI or less
- The maximum rent charged must be the lowest of High HOME rents or FMR for CDBG restricted units.

Temporary Exceptions to Rent Limitations

The following are exceptions to the rent restrictions stated above:

- If the project is occupied at the time HDD assistance is awarded to the project, existing tenants who earn more than the income limits stated above must pay no more than 30% of their adjusted income in rent and utilities
- If a tenant is residing in a designated HDD assisted unit and the tenant's income increases to more than the unit's income restriction (50% or 60% AMI) during the term of the lease, the tenant must pay no more than 30% of their adjusted gross income in rent and utilities. The rent must be adjusted at the annual recertification. Only when the tenant chooses to leave or not renew the lease, the unit must then be rented to a new tenant who meets the income limits. City policy is that tenants should not be displaced if their income increases to a level higher than the eligible household income during the lease term.

UNDERWRITING GUIDELINES

General

- An Applicant may receive no more than 2 project subsidies each year.
- Applicants must demonstrate that rent proceeds or other funding sources will allow for adequate reserves to meet capital needs for the length of the affordability period.
- Additional funding will not be loaned to a project once the Certificate of Completion has been issued.

Types of Development and Limits

Acquisition Only

- Acquisition can include existing units or vacant land.

- If the property does not meet Uniform Physical Condition Standards (UPCS) it cannot be acquired unless it is rehabilitated to meet the UPCS. A property inspection must be completed no earlier than 90 days before the contract is signed. Once the rehabilitation is complete, HDD must conduct an inspection of the property to ensure compliance with rehabilitation standards. Non-compliance will be deemed a violation of the loan agreement.
- Acquisition of land must be for the purpose of new construction that will begin within 6 months
- The acquisition must be equal to or less than the fair market value of the property as determined by appraisal
- The maximum award is \$1,000,000

Acquisition and Rehabilitation

- Property acquisition is described above
- Minimum rehabilitation cost is \$1,000 per unit
- The maximum award is \$1,000,000

New Construction

- The maximum award is \$1,000,000

The Division manager at his/her discretion, can deviate from the project limits.

Financing

Amortized Loans

- Requires repayment (usually monthly) over terms up to 40 years
- Interest rates range from 0% to rates that will typically be lower than market lending rates, plus allowable fees
- A Deed of Trust will be secured against the property for the length of the affordability period or the term of the loan, whichever is longer

Interest rates and terms on HDD loans are determined by cash flow projections and can be negotiated within the parameters of HDD underwriting criteria.

Deferred Payment Loans

- Loan terms can be from 20-40 years or at the sale or transfer of the property

- Interest rates range from 0% per annum to rates that will typically be lower than market lending rates in effect at the time the loan is made, plus allowable fees
- A Deed of Trust will be secured against the property for the length of the affordability period or the term of the loan, whichever is longer

Forgivable Loans

- Loan forgiveness may occur at one point in time (at the end of the affordability period) or forgiven incrementally over time
- A Deed of Trust will be secured against the property for the length of the affordability period or the term of the loan, whichever is longer

Grants

- Provided with no requirement or expectation for repayment
- Most commonly used for projects serving special needs populations.
- A Deed of Trust will be secured against the property for the length of the affordability period or as specified in the grant agreement

Non-Interest Bearing Loans

- Loan terms vary
- Interest is 0%
- The principal is paid back on a regular basis, but no interest is charged
- A Deed of Trust will be secured against the property for the length of the affordability period or the term of the loan, whichever is longer

Surplus Cash Loan

If full amortization is not feasible due to limited cash flow, funds shall be repaid from an agreed upon percentage split of surplus cash on an annual or biannual basis. Borrowers must provide an Annual Cash Flow Analysis Report that demonstrates the calculation and accrual of applicable surplus cash funds.

Surplus Cash Definition: For the fiscal year period ending prior to the annual installment date, the sum of gross rent revenues (less rental taxes and tenant security deposits) and other income received from the operation of the project including amounts withheld from security deposits returned to tenants, less (a) annual accrued debt service for approved permanent senior loan(s); (b) actual operating expenses (including but not limited to utilities, supplies, repair and maintenance costs, property taxes, property management fees, insurance escrows and reserves and amounts deposited in any replacement reserve

account) and excluding allowed or allowable depreciation and amortization, and (c) payments of an asset management fee pursuant to an Asset Management Services Agreement as required in a Low Income Housing Tax Credit (LIHTC) project. Specifically excluded expenses include any payments or disbursements to the project owner and/or borrower of City funds, tax credit adjustors, depreciation, amortization, payments pursuant to developer guarantees or any payments on deferred developer fees. Surplus cash will be calculated based on an audited annual cash flow analysis report for the fiscal year period ending prior to the annual installment date.

Market Analysis

A market analysis or study is required for projects that will receive HDD funding for acquisition, rehabilitation and new construction. A market analysis is an evaluation of the economic conditions of supply, demand and rental rates for the type of low-income housing development being proposed as well as the rent levels proposed for the project. The analysis must determine the feasibility of the subject property rental rates and state conclusions as to the impact of the property with respect to the determined housing needs. All data presented should reflect the most current information available and the report must provide source data. All steps leading to the calculated figures must be presented in the report. One of the following methods will be used and must be approved by HDD:

1. The applicant must use a professional market analyst experienced in multi-family rental housing must prepare the analysis and have no affiliation with the applicant, developer, lender and/or syndicator. The qualifications of the individual or company providing the analysis must be provided.
2. The applicant may conduct an analysis of the information listed above.

Subsidy Layering

HUD establishes limits on the amount of HOME funds that may be invested in affordable housing on a per-unit basis. Before committing funds to a project that combines any other sources of financing (local, state, federal, private, etc.), HDD must evaluate the project to ensure that the City does not invest any more funds than necessary to provide affordable housing. Applicants must demonstrate that they have structured projects to maximize other available financing sources thereby limiting HDD funding to the lowest amount necessary to assure project feasibility.

Developer Capacity

The developer must have the organizational capacity to implement the project. Developer capacity will be evaluated on information demonstrating experience and skills as provided in the HDD funding application.

1. Experience: Considerations include, but may not be limited to, the following skills of the developer and development team.
 - Recent, similar, successful experience
 - Similar project location, size and scope
 - Years of experience developing affordable housing
 - Managing affordable rental projects
 - Using multiple funding sources
 - Staffing
 - Previous working history with HDD
2. Skills: Considerations include, but may not be limited to, the following skills of a developer and the development team:
 - Project management
 - Market analysis
 - Site selection and control
 - Property management
 - Planning and construction
 - Design, architecture, engineering
 - Legal and accounting
 - Federal funding rules
 - Other funding source rules
3. Fiscal Soundness: The applicant will be asked to provide evidence of financial ability to implement the project. Applicants will be required to provide proof of commitments from other funding sources, current financial statements and proof of sufficient reserves or a line of credit available, if necessary, to complete the project.

Developer Fee

A developer fee is compensation to the developer for the time and risk involved to develop the project. The fee is based on the size of the project, the total development cost and the risk associated with the project. Developer fees include all amounts received by the applicant whether characterized as project management, overhead or developer fee. Consultants are commonly utilized to assist the developer/owner by providing specific expertise in completing the project. The maximum aggregate allowable developer and consultant fees are calculated as a

percentage of Total Project Costs, less land, project reserves, other cost category adjustments, and the Developer/Consultant Fee category.

- 12.0% for projects consisting of 51 units or more
- 15.0% for projects consisting of 50 units or less

Developer fees that are not deferred may be distributed as follows, subject to the approval of other project lenders, tax credit equity investor, etc.:

- 1/3 at the close of all construction loans
- 1/3 in progress payments during construction
- 1/3 at 90% occupancy and receipt of all tenant certifications for restricted units.

Reserves and Operating Expenses

The amount of required reserves must be specifically approved by HDD in the final loan agreement or through the annual budget review and approval process and will typically match reserve requirements by the state housing programs when those programs are utilized. Operating expenses shall be determined on a GAAP accounting basis and shall not include any payments to parties affiliated with the borrower, to the extent that such payment exceeds the typical cost of procuring equivalent services from an unrelated third party.

Loan Position: Subordination to Senior Debt

The City's loan may be subordinated to another lender's mortgage lien if subordination is required as a condition of that lender's loan approval; however all debt on the property must be subordinate to a LURA, as described above. Terms, conditions and covenants of **all** debt instruments recorded against the subject property must be reviewed and approved by HDD prior to disbursement of an award.

Loan-to-Value Limits

For acquisition requests, the loan amount awarded by the City, plus the principal amount of all loans with a senior claim to the subject property shall not exceed 100% of the acquisition cost or appraised value, whichever is lower.

For new construction and rehabilitation requests, the loan amount awarded by the City, plus the principal amount of all loans with a senior claim to the subject property shall not exceed 100% of the "as-proposed" value.

Debt Service Coverage Ratio (DSCR)

The minimum debt service coverage ratio shall not be less than 1.15:1, including all amortized project debt, throughout the initial 15-year pro forma period. Projects with a ratio that exceed 1.30:1 may be subject to lower subsidy limitations.

Inter-Creditor Agreement

Within thirty (30) days of the execution of an Agreement, the developer shall secure the execution, by the senior lender on the project, of an Inter-Creditor Agreement or Declaration which at a minimum shall: (1) require the senior lender to notify HDD in the event the senior lender learns of a default under the senior loan for the project and (2) require the senior lender to give HDD written notice of and reasonable opportunity to cure any default by the developer under the senior loan (provided, however, HDD shall have no obligation to cure any such default). Following execution, the Inter-Creditor Agreement shall be attached to the final agreement.

Funding Conditions - Pre-Development Phase:

Funds are not available for pre-development loans.

Funding Conditions - Acquisition Phase

Loans for site acquisition will not be funded unless all pre-conditions of the construction phase funding have also been achieved. Acquisition loans must be recorded in first lien position unless otherwise approved by HDD.

Funding Conditions - Construction Phase

Prior to or concurrently with construction phase funding, the borrower must provide evidence that all other necessary construction funding sources have been committed and that binding commitments are in place for all sources of permanent financing.

Loan Repayment

Repayment may not be required during the acquisition, construction and lease-up phase. Generally, loan repayment will begin 45 days after the acquisition of existing units. For construction or rehabilitation projects, loan repayment will begin within 45 days of project stabilization. Stabilization is generally defined as of the last day of the month in which 90% of units have been occupied for a minimum of 90 days.

Assignment

Loans or loan commitments are not assignable without the prior written approval of HDD. If the assignment is approved, the assignee must assume all loan obligations including, but not limited to, the affordability requirements.

Material Changes

Any material changes to the project during underwriting or construction must be reported in writing to HDD. Failure to do so may constitute an event of default under terms and conditions of the City loan.

Recourse

Acquisition, construction and permanent loans are provided on a non-recourse basis and are secured by collateral as noted above. Loans may be cross-collateralized against properties included in the same financing transaction.

SITE SELECTION AND NEIGHBORHOOD COMPATIBILITY

Site Design Principles

The determination of the site location is a very important part of the project preparation process and should not be overlooked. A well-chosen site location can significantly increase the success of the project. Issues to consider include orientation, storm-water management, access to transit, and proximity to community amenities (commercial, social services, education, parks, and healthcare facilities).

Affordable Multi-Unit Family and Senior Housing Concentration Policy

Affordable housing opportunities should be available to residents throughout the City of Colorado Springs. The City strongly discourages the concentration of LMI populations within neighborhoods and promotes housing choice throughout the City.

Proximity to Site Amenities

Developments should be located on sites within a 2-mile radius of social, recreational, commercial, educational and health facilities and services.

A map identifying the development site and the location of supporting services is required. The service must be identified by name on the map. All services must exist or be under construction.

Connectivity Requirements and Proximity to Transportation

A site should be located within ¼ mile of a transit stop. A map showing the walkable route to the bus stops is required. The applicant must also identify if the route is accessible (curb ramps at the corners and no sidewalk trip hazards). If the route is not accessible, the City may be able to install the infrastructure improvements. For senior developments, if transportation is provided by the developer, the development is not required to be located within a ¼ mile of a transit stop.

Proximity to Negative Site Features

Sites with the below mentioned negative characteristics will be ineligible. The distances are to be measured from all boundaries of the development site. Applicants must indicate on a map, the location of any negative site features.

Negative site features include developments located :

- Adjacent to or within 300 feet of junkyards
- Adjacent to or within 3,000 feet of active railroad tracks
- Adjacent to or within 1,000 feet of an interstate highway including frontage and service roads
- Adjacent to or within 300 feet of heavy industrial uses such as manufacturing plants
- Adjacent to or within 300 feet of a solid waste or sanitary landfill
- Adjacent to or within 100 feet of high voltage transmission power lines

Zoning

City Zoning and development plan requirements should be the first consideration when finding a suitable location. Contact the City Land Use Review offices to determine the correct zoning for multi-family, duplex, or single-family homes. Pre-application meeting request forms to set up a meeting to discuss a site are located on the City website under the Land Use Review Department

(<http://www.springsgov.com/Page.aspx?NavID=2852>). Questions on land uses can also be answered by calling 385-5905.

The following project aspects will assist HDD in determining relative preference in awarding funds. Applicants are strongly encouraged to consider these factors in identifying and/or designing projects that support the overall purpose of creating a more vibrant, liveable community.

Building Placement

There are many considerations to think about when placing a building on the site. The building location allows for spaces between buildings to become positive space. Consideration for shade and heat gain or loss should be a part of the site planning for sidewalks, open space, and drive lanes.

Open Space

Public and private open space shall be provided onsite. Private open space can be in the form of patio spaces for each unit. Public open space should be useable and serve the entire complex. A minimum of 200 square feet per bedroom shall be provided. The open space can include play areas for kids, an area without steep grades for outdoor activities (Frisbee, walking dogs, etc.), barbeque spaces, benches, pools, workout rooms, plazas, courtyards, etc. Proximity to a neighborhood park can be used in conjunction with the open space on-site if the park is less than ¼ mile away and is a minimum of ¾ of an acre. Consideration for summer shade, winter sun, and protection from wind should be taken into account when placing outdoor space.

Sidewalks & Bike Facilities

Pedestrian and bicycle connections on-site and off-site should be a part of the development of the property. Sidewalk circulation should ensure access to all parts of the site as well as nearby trails, transit stops, schools, shopping centers and parks. Bicycle parking shall be provided that is conveniently accessed by each building.

Parking

Adequate parking to meet City Code requirements must be included on site. Ensure consideration for household number and the potential number of cars needed, as well as guest parking is considered, in addition to meeting City Code requirements. Accessible parking spaces should be strategically placed to ensure they are able to be used effectively.

Landscaping

Landscaping requirements within City Code must be met on site. Placement of landscaping should be strategic to ensure the landscaping is benefiting open spaces, protecting from heat gain or loss, and lowering parking lot heat island effect. Minimize the use of turf and only use turf in active locations. Irrigation systems shall be provided to ensure the landscape thrives in the dry climate.

Lighting

Lighting onsite shall include full cut-off fixtures and be mounted 20' or less off the ground. Lighting should be strategically placed to encourage safety, and not to ensure the entire site is lighted.

DEVELOPMENT REQUIREMENTS

Minimum Units

The minimum unit size for a multi-family development is 5 units. Single family units (1-4 units) may be considered.

Code Compliance

All acquired property must conform, at minimum, to prevailing building standards and zoning code of the City of Colorado Springs. For projects which incorporate rehabilitation or new construction, the completed project must conform to these standards prior to final disbursement of awarded funds.

Capital Needs Assessment

For the acquisition of existing structures (not slated for demolition) and rehabilitation projects, a Capital Needs Assessment (CNA) per the Uniform Physical Condition Standards (UPCS) must be completed. The CNA must identify the useful life of major systems to include: structural support, roofing, cladding, weatherproofing (windows, doors, siding, gutters), plumbing, electrical, heating, ventilation and air conditioning. If the remaining useful life is less than the affordability period, a replacement reserve as well as a replacement schedule is required to ensure the items can be adequately maintained and addressed throughout the affordability period. The CNA must be conducted by a qualified third party that is independent of the developer.

Sustainability and Energy Efficiency

Designing and locating affordable housing with sustainable design and green building in mind will ensure efficient land use, reduce energy costs and add to the appeal of the property. It is important to the City that housing positively contributes to the environmental health of our residents and neighborhoods by decreasing energy and water usage, reducing operating and maintenance costs and improving the efficiency and longevity of the building system. Construction projects of new and existing buildings must be designed and constructed to be energy and water efficient, reducing tenant costs while improving the structure's sustainability.

- Appliances, mechanical systems, windows, doors, insulation must meet Energy Star standards.
- Toilets, faucets, shower heads must meet the Water Sense low volume standards.
- Rebates may be available from Colorado Springs Utilities. Visit www.csu.org.

Accessible and Adaptable Units

Assistance may not be provided for the acquisition of multi-family units that will not allow a portion of the units to be made accessible to persons with disabilities. Projects incorporating 5 or more units must contribute to increasing the number of accessible and/or adaptable units through the following *minimum* requirements:

Acquisition of Existing Units (not slated for demolition) and Rehabilitation Projects

- At least one (1) or 10%, whichever is greater, of all units rehabilitated must be made accessible for persons with mobility disabilities.
- Additionally, at least (1) unit or 2%, whichever is greater, of all units rehabilitated must be made adaptable for persons with hearing and/or visual disabilities

New Construction

- At least one (1) or 10%, whichever is greater, of all new units must be made accessible for persons with mobility disabilities.
- Additionally, at least (1) unit or 2% of all new units must be made accessible to accommodate the needs of persons with hearing and/or visual disabilities.

Distribution of Accessible Units

To the greatest extent possible, accessible dwelling units should be distributed throughout the project and should be available in a sufficient range of sizes and amenities.

- The choice of an individual with a disability should be comparable to that of other prospective tenants
- Accessible dwelling units should not be concentrated in one area of the property.
- An elevator does not have to be installed for the sole purpose of allowing accessible units to be located above the ground floor.

Occupancy of Accessible Dwelling Units Policy

Owners/managers of projects that have accessible units should ensure that information regarding the accessible units reaches individuals with disabilities. Additionally, owners/managers should take non-discriminatory steps to maximize the utilization of accessible units by qualified individuals with disabilities. This can be done by maintaining a waiting list for accessible units and offering vacant accessible units to applicants in the following order:

1. To a current occupant of another unit in the same property or other comparable property within the owner/manager's control, who has a disability requiring the accessibility of the vacant unit and who currently occupies a unit that does not have the accessibility features.
2. To a qualified applicant on the waiting list who has a disability requiring the accessibility features of the vacant unit.
3. To a qualified applicant who does not have a disability requiring the accessibility features of the unit; however, the owner/manager may incorporate language in the lease that the applicant will agree to move to a non-accessible unit when one becomes available.

Development in the Floodplain

Affordable housing development will not be allowed within any local or federally-designated 100-year floodplain.

APPLICATION PROCESS

Pre-Application Meeting

A pre-application conference is required prior to submitting an application to the City of Colorado Springs to ensure compliance with all federal, state and local regulations. Applicants are encouraged to review these guidelines and meet with

staff at early as possible in project process. While such consultations do not commit HDD to fund a particular proposal, they provide valuable insight into the prospective benefits, funding availability and issues associated with a potential development.

Submission and Requirements

HDD administers the Program and accepts applications throughout the program year (April 1 – March 31). The City will announce the affordable rental housing priorities annually in the Action Plan.

Applications must be submitted according to the instructions.

Applications that do not follow the submission requirements will not be considered. Applicants will be given a single, time-limited opportunity to rectify any deficiencies in a submitted application.

The most current application forms may be accessed through the HDD website. Please refer to the application checklist to ensure that a proposal is complete and please follow the submission requirements. **Note that any commitments entered into by the applicant prior to an award of funds do not constitute a rationale for an award.** Applicants are therefore advised to ensure any and all agreements dependent on an award of city funding contain adequate escape mechanisms to minimize adverse consequences in the event funding is not available or the proposal is not awarded funds.

Please check the HDD website (<http://www.springsgov.com/Page.aspx?NavID=3225>) for the most current funds availability and other valuable information.

Evaluation

Funding rounds are very competitive as total requested funds typically exceed the amount available during a given year. Upon submission, HDD staff will review all applications for completeness and eligibility, rejecting all deficient applications without further analysis.

1. **Initial review.** HDD staff ensures that the application is complete and the basic mandatory evaluation criteria are met. The mandatory criteria are designed to meet local, state and federal compliance requirements and HDD objectives. Applications must meet a minimum score in order to be considered further. However, submission of an application that meets or exceeds the minimum score is not a guarantee that the proposed project

will be funded. Incomplete applications will be returned to applicants identifying the deficiencies. The application will not be eligible for further consideration until a complete application is submitted. In addition to the

funding process, projects seeking Planning Department approvals are subject to the provisions of the land use review process.

2. **Staff analysis.** HDD staff reviews the applications that meet mandatory evaluation criteria, asks clarifying questions of the applicants and prepares a staff analysis. Staff may request additional detail from the applicant, conduct a tour of the subject site or property, obtain additional information from outside sources, and consult with other departments within the City. Applicants may be scheduled to make a formal presentation of the project proposal as circumstances dictate. Staff will make a recommendation of full, partial or no funding for each application.
3. **Final Decision:** Applications are approved or denied by the Project Review Team (Team), a panel of City staff knowledgeable in the development process. Following presentations and tours, if any, the Team evaluates all proposals to determine the extent to which each fulfills community objectives. The Team uses the Affordable Housing Program scoring criteria developed for the program, will review the staff recommendation, and will discuss programmatic, regulatory and administrative aspects of a proposed project. *Final approval is subject to environmental clearance.*

In the event that insufficient funds are available to meet the requirements of all qualifying applications, the highest scoring applications that are ready to proceed will be funded first.

Notification

HDD will notify the applicant in writing of a decision to approve or disapprove any application within 60 days of the submittal of a complete application. Unless provided in writing by HDD, no person or organization shall construe any discussions or written information provided by HDD staff to constitute an acceptable application or an obligation or commitment for funding. Applicants will be notified of the Team's decision within 5 calendar days following the decision date.

DO NOT MOVE ANY DIRT ON THE SITE OR BEGIN ANY CONSTRUCTION!

IMPORTANT REMINDER: All projects must undergo environmental review and receive environmental clearance. If federal funds are involved in the project through the City or another source, no project acquisition or construction activities may take place after application submittal and prior to the completion of the

environmental clearance process, regardless of the source of funds being utilized for the activity.

LOAN PROCESS

Documents

Once applicants have been notified of loan approval, HDD will complete the environmental review and provide notice of any required mitigation measures as a condition of the loan commitment. Applicants will be provided a copy of the draft loan documents for review and comment.

A City loan agreement includes:

- ✓ Loan Agreement
- ✓ Promissory Note
- ✓ Deed of Trust
- ✓ Land Use Restriction Agreement (LURA)

Developers that are required to comply with the Davis Bacon prevailing wage regulations as a condition of the commitment, must meet schedule a pre-construction conference to ensure the development team and contractor understand the prevailing wage monitoring and include the appropriate provisions in the construction contracts.

Loan Funding

In preparation for loan funding, HDD staff will perform the following:

- Verification of closing conditions: review all pre-funding conditions of the Loan Agreement to ensure that the borrower has complied with conditions and provided necessary documentation.
- Scheduling the closing: borrower will be responsible for scheduling the closing, collecting and reviewing the final loan documents and working with HDD staff to set a closing date.

- Loan funding: prior to disbursement of loan funds, the Borrower must comply with all conditions set forth in the Loan Agreement and provide HDD with the following:
 - ✓ Certified copies of executed loan documents
 - ✓ Proof of current property tax payments
 - ✓ Proof of insurance meeting City insurance requirements
 - ✓ Title insurance meeting Department standards
- ✓ Proof of compliance with prevailing wage requirements, if applicable

REPORTING

HDD assisted projects require long-term commitments by the owner/developer. Reporting to demonstrate compliance with the terms of the loan agreement will include:

- Periodic reports to HDD regarding project financials, project cash flow and borrower's compliance with applicable requirements of the funding source.
- The assisted units are being property managed/operated.
- The assisted units are being affirmatively marketed per Fair Housing Act requirements.

Should the borrower fail to produce the required documentation in a timely manner or as prescribed by the loan agreement, HDD may consider this a default of the loan agreement.

MONITORING

Prior to the draw of any funds, city-required legal documents must be executed and the awardee must demonstrate that all funding conditions have been satisfied. During the period of open project activities, quarterly progress reports must be submitted by the awardee. Progress reports must provide sufficient detail for HDD to determine the awardee is in compliance with all terms and conditions of the award. Awardees must provide prompt, accurate and complete documentation to substantiate any deviations from application materials submitted to HDD. Any material changes to the financial, operational (including ownership interest) or physical structure of the property must be reported immediately to HDD.

After a project has been completed and all funds have been drawn, the awardee will submit annual reports in compliance with the funding agreement or loan covenant. Delinquent reporting will result in the suspension of further disbursement of awarded funds.

Periodic site reviews will be conducted by appointment to confirm the extent of work to be completed, monitor progress and to ensure work has been completed in accordance with project plans, City building code, the construction contract and all plans and specifications provided within the program application.

During the review process an analysis of randomly selected client files will confirm compliance with resident eligibility and documentation standards. A written

summary will be sent to the awardee within thirty days of the site review. A determination of noncompliance will be communicated to the awardee in writing with the required corrective actions and the cure period. Non-compliance will result in the suspension of further disbursement of awarded funds and ineligibility for future funding.

DEFAULT ACTIONS AND SANCTIONS

The City retains the right to determine in its sole decision, whether a default has taken place in an HDD funded project. The City may exercise default actions if the City determines that the default or violation(s) of the terms and conditions of the executed agreement has or may take place by the developer of the project. A default or violation may be facilitated as the result of an action or inaction taken by the project developer, organization, agency, contractor, individual or duly appointed representative of the developer or developer project. A default or violate may include, but may not be limited to the following:

- Developer or developer's project fails to adequately address the applicable local, state or federal rules and/or regulations governing the acquisition, construction and/or initial occupancy requirements of the project, or
- Any breach of any provision contained in the loan document, or
- If HDD program funds are used for any purpose other than authorized in the HDD program agreement, or
- The appropriate proportion of assisted units are not maintained for the term of the loan, or
- There is a change in use of the property prior to repayment of the City assistance without City review and written approval, or
- Developer fails to respond to the City, HUD's or IRS requests for occupant and rental information during the life of the loan, or
- Property is not maintained in compliance with the City's or Code or federal Uniform Physical Conditions Standards (UPCS), or
- Developer fails to comply with information submitted by the developer to the City through the project selection process, or
- Developer or developer's project violates local, state or federal law, or

- Developer or developer's project fails to maintain adequate documentation in support of project requirements.

Default sanctions available to the City may include, but are not limited to any one or any combination of the following:

- Call the project not due and payable in accordance with the terms and conditions of the note
-
- Call the note due and payable for the full amount of the City funds provided to the project
- Temporarily suspend the project until corrective action is taken
- Terminate the agreement and associated documents with the project
- Request a review or investigation by local or federal authorities if applicable
- Debar or suspend the project organization or individual from consideration of any future funding opportunities from the City.